

§ 648.82 Effort-control program for NE multispecies limited access vessels.

(a) Except as provided in §§ 648.17 and 648.82(a)(2), a vessel issued a limited access NE multispecies permit may not fish for, possess, or land regulated species, except during a DAS, as allocated under, and in accordance with, the applicable DAS program described in this section, unless otherwise provided elsewhere in this part.

(1) *End-of-year carry-over.* With the exception of vessels that held a Confirmation of Permit History, as described in § 648.4(a)(1)(i)(J), for the entire fishing year preceding the carry-over year, limited access vessels that have unused DAS on the last day of April of any year may carry over a maximum of 10 DAS into the next year. Unused leased DAS may not be carried over. Vessels that have been sanctioned through enforcement proceedings will be credited with unused DAS based on their DAS allocation minus any total DAS that have been sanctioned through enforcement proceedings. For the 2004 fishing year only, DAS carried over from the 2003 fishing year will be classified as Regular B DAS, as specified under paragraph (d)(2) of this section. Beginning with the 2005 fishing year, for vessels with a balance of both unused Category A DAS and unused Category B DAS at the end of the previous fishing year (*e.g.*, for the 2005 fishing year, carry-over DAS from the 2004 fishing year), Category A DAS will be carried over first, than Regular B DAS, than Reserve B DAS. Category C DAS cannot be carried over.

(2) Notwithstanding any other provision of this part, any vessel issued a NE multispecies limited access permit may not call into the DAS program or fish under a DAS, if such vessel carries passengers for hire for any portion of a fishing trip.

(b) *Permit categories.* All limited access NE multispecies permit holders shall be assigned to one of the following permit categories, according to the criteria specified. Permit holders may request a change in permit category, as specified in § 648.4(a)(1)(i)(I)(2). Each fishing year shall begin on May 1 and extend through April 30 of the following year. Beginning May 1, 2004, with the excep-

tion of the limited access Small Vessel and Handgear A vessel categories described in paragraphs (b)(5) and (6) of this section, respectively, NE multispecies DAS available for use will be calculated pursuant to paragraphs (c) and (d) of this section.

(1) *Individual DAS category.* This category is for vessels allocated individual DAS that are not fishing under the Hook Gear, Combination, or Large-mesh individual categories. Beginning May 1, 2004, for a vessel fishing under the Individual DAS category, the baseline for determining the number of NE multispecies DAS available for use shall be calculated based upon the fishing history associated with the vessel's permit, as specified in paragraph (c)(1) of this section. The number and categories of DAS that are allocated for use in a given fishing year are specified in paragraph (d) of this section.

(2) *Hook Gear category.* To be eligible for a Hook Gear category permit, the vessel must have been issued a limited access multispecies permit for the preceding year, be replacing a vessel that was issued a Hook Gear category permit for the preceding year, or be replacing a vessel that was issued a Hook Gear category permit that was issued a Confirmation of Permit History. Beginning May 1, 2004, for a vessel fishing under the Hook Gear category, the baseline for determining the number of NE multispecies DAS available for use shall be calculated based upon the fishing history associated with the vessel's permit, as specified in paragraph (c)(1) of this section. The number and categories of DAS that are allocated for use in a given fishing year are specified in paragraph (d) of this section. A vessel fishing under this category in the DAS program must meet or comply with the gear restrictions specified under § 648.80(a)(3)(v), (a)(4)(v), (b)(2)(v) and (c)(2)(iv) when fishing in the respective regulated mesh areas.

(3) *Combination vessel category.* To be eligible for a Combination vessel category permit, a vessel must have been issued a Combination vessel category permit for the preceding year, be replacing a vessel that was issued a Combination vessel category permit for the preceding year, or be replacing a vessel that was issued a Combination vessel

category permit that was also issued a Confirmation of Permit History. Beginning May 1, 2004, for a vessel fishing under the Combination vessel category, the baseline for determining the number of NE multispecies DAS available for use shall be calculated based upon the fishing history associated with the vessel's permit, as specified in paragraph (c)(1) of this section. The number and categories of DAS that are allocated for use in a given fishing year are specified in paragraph (d) of this section.

(4) *Large Mesh Individual DAS category.* This category is for vessels allocated individual DAS that area not fishing under the Hook Gear, Combination, or Individual DAS categories. Beginning May 1, 2004, for a vessel fishing under the Large Mesh Individual DAS category, the baseline for determining the number of NE multispecies DAS available for use shall be calculated based upon the fishing history associated with the vessel's permit, as specified in paragraph (c)(1) of this section. The number and categories of DAS that are allocated for use in a given fishing year are specified in paragraph (d) of this section. The number of Category A DAS shall be increased by 36 percent. To be eligible to fish under the Large Mesh Individual DAS category, a vessel, while fishing under this category, must fish under the specific regulated mesh area minimum mesh size restrictions, as specified in § 648.80(a)(3)(iii), (a)(4)(iii), (b)(2)(iii), and (c)(2)(ii).

(5) *Small Vessel category—(i) DAS allocation.* A vessel qualified and electing to fish under the Small Vessel category may retain up to 300 lb (136.1 kg) of cod, haddock, and yellowtail flounder, combined, and one Atlantic halibut per trip, without being subject to DAS restrictions, provided the vessel does not exceed the yellowtail flounder possession restrictions specified under § 648.86(g). Such vessel is not subject to a possession limit for other NE multispecies. Any vessel may elect to switch into this category, as provided in § 648.4(a)(1)(i)(I)(2), if the vessel meets or complies with the following:

(A) The vessel is 30 ft (9.1 m) or less in length overall, as determined by measuring along a horizontal line

drawn from a perpendicular raised from the outside of the most forward portion of the stem of the vessel to a perpendicular raised from the after most portion of the stern.

(B) If construction of the vessel was begun after May 1, 1994, the vessel must be constructed such that the quotient of the length overall divided by the beam is not less than 2.5.

(C) Acceptable verification for vessels 20 ft (6.1 m) or less in length shall be USCG documentation or state registration papers. For vessels over 20 ft (6.1 m) in length overall, the measurement of length must be verified in writing by a qualified marine surveyor, or the builder, based on the vessel's construction plans, or by other means determined acceptable by the Regional Administrator. A copy of the verification must accompany an application for a NE multispecies permit.

(D) Adjustments to the Small Vessel category requirements, including changes to the length requirement, if required to meet fishing mortality goals, may be made by the Regional Administrator following framework procedures of § 648.90.

(ii) [Reserved]

(6) *Handgear A category.* A vessel qualified and electing to fish under the Handgear A category, as described in § 648.4(a)(1)(i)(A), may retain, per trip, up to 300 lb (135 kg) of cod, one Atlantic halibut, and the daily possession limit for other regulated species and ocean pout as specified under § 648.86. The cod trip limit shall be adjusted proportionally to the trip limit for GOM cod (rounded up to the nearest 50 lb (22.7 kg)), as specified in § 648.86(b)). For example, if the GOM cod trip limit specified at § 648.86(b) doubled, then the cod trip limit for the Handgear A category would double. Qualified vessels electing to fish under the Handgear A category are subject to the following restrictions:

(i) The vessel must not use or possess on board gear other than handgear while in possession of, fishing for, or landing NE multispecies, and must have at least one standard tote on board.

(ii) A vessel may not fish for, possess, or land regulated species from March 1 through March 20 of each year.

(iii) Tub-trawls must be hand-hauled only, with a maximum of 250 hooks.

(c) *Used DAS baseline*—(1) *Calculation of used DAS baseline*. For all valid limited access NE multispecies DAS vessels, vessels issued a valid small vessel category permit, and NE multispecies Confirmation of Permit Histories, beginning with the 2004 fishing year, a vessel's used DAS baseline shall be based on the fishing history associated with its permit and shall be determined by the highest number of reported DAS fished during a single qualifying fishing year, as specified in paragraphs (c)(1)(i) through (iv) of this section, during the 6-year period from May 1, 1996, through April 30, 2002, not to exceed the vessel's annual allocation prior to August 1, 2002. A qualifying year is one in which a vessel landed 5,000 lb (2,268 kg) or more of regulated multispecies, based upon landings reported through dealer reports (based on live weights of landings submitted to NMFS prior to April 30, 2003). If a vessel that was originally issued a limited access NE multispecies permit was lawfully replaced in accordance with the replacement restrictions specified in § 648.4(a), then the used DAS baseline shall be defined based upon the DAS used by the original vessel and by subsequent vessel(s) associated with the permit during the qualification period specified in this paragraph (c)(1). The used DAS baseline shall be used to calculate the number and category of DAS that are allocated for use in a given fishing year, as specified in paragraph (d) of this section.

(i) Except as provided in paragraphs (c)(1)(ii) through (iv) of this section, the vessel's used DAS baseline shall be determined by calculating DAS use reported under the DAS notification requirements in § 648.10.

(ii) For a vessel exempt from, or not subject to, the DAS notification system specified in § 648.10 during the period May 1996 through June 1996, the vessel's used DAS baseline for that period will be determined by calculating DAS use from vessel trip reports submitted to NMFS prior to April 9, 2003.

(iii) For a vessel enrolled in a Large Mesh DAS category, as specified in paragraph (b)(4) of this section, the calculation of the vessel's used DAS base-

line may not include any DAS allocated or used by the vessel pursuant to the provisions of the Large Mesh DAS category.

(2) [Reserved]

(d) *DAS categories and allocations*. For all valid limited access NE multispecies DAS permits, and NE multispecies Confirmation of Permit Histories, beginning with the 2004 fishing year, DAS shall be allocated and available for use for a given fishing year according to the following DAS Categories (unless otherwise specified, "NE multispecies DAS" refers to any authorized category of DAS):

(1) *Category A DAS*. Calculation of Category A DAS for each fishing year is specified in paragraphs (d)(1)(i) through (iv) of this section. An additional 36 percent of Category A DAS will be added and available for use for participants in the Large Mesh Individual DAS permit category, as described in paragraph (b)(4) of this section, provided the participants comply with the applicable gear restrictions. Category A DAS may be used in the NE multispecies fishery to harvest and land stocks of regulated species or ocean pout, in accordance with all of the conditions and restrictions of this part.

(i) For the 2004 and 2005 fishing years, Category A DAS are defined as 60 percent of the vessel's used DAS baseline specified under paragraph (c)(1) of this section.

(ii) For the 2006 through 2008 fishing years, Category A DAS are defined as 55 percent of the vessel's used DAS baseline specified under paragraph (c)(1) of this section.

(iii) For fishing year 2009 (May 1, 2009, through April 30, 2010), Category A DAS are defined as 45 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section.

(iv) Starting in fishing year 2010 (beginning May 1, 2010), Category A DAS are defined as follows:

(A) For a vessel fishing under the provisions of the common pool, as defined in this part, Category A DAS are defined as 27.5 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section, unless otherwise revised pursuant to paragraph

(n)(1) of this section, or reduced pursuant to § 648.87(b)(1)(iii).

(B) For a sector vessel, Category A DAS allocated for use when fishing in other fisheries that require the concurrent use of a NE multispecies DAS are defined as 45 percent of the vessel's used DAS baseline specified in paragraph

(2) *Category B DAS.* Category B DAS are divided into Regular B DAS and Reserve B DAS. Calculation of Category B DAS for each fishing year, and restrictions on use of Category B DAS, are specified in paragraphs (d)(2)(i) and (ii) of this section.

(i) *Regular B DAS—(A) Restrictions on use.* Regular B DAS can only be used by NE multispecies vessels in an approved SAP or in the Regular B DAS Program as specified in § 648.85(b)(6). Unless otherwise restricted under the Regular B DAS Program as described in § 648.85(b)(6)(i), vessels may fish under both a Regular B DAS and a Reserve B DAS on the same trip (i.e., when fishing in an approved SAP as described in § 648.85(b)). Vessels that are required by the Monkfish Fishery Management Plan to utilize a NE multispecies DAS, as specified under § 648.92(b)(2), may not elect to use a NE multispecies Category B DAS to satisfy that requirement.

(B) *Calculation.* Regular B DAS are calculated as follows:

(1) For the 2004 and 2005 fishing years, Regular B DAS are defined as 20 percent of the vessel's DAS baseline specified under paragraph (c)(1) of this section.

(2) For the 2006 through 2008 fishing years, Regular B DAS are defined as 22.5 percent of the vessel's DAS baseline specified under paragraph (c)(1) of this section.

(3) For fishing year 2009 (May 1, 2009, through April 30, 2010), Regular B DAS are defined as 27.5 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section.

(4) Starting in fishing year 2010 (beginning May 1, 2010), Regular B DAS are defined as follows:

(i) For a common pool vessel, Regular B DAS are defined as 36.25 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section,

unless otherwise revised pursuant to paragraph (n)(1) of this section.

(ii) For a sector vessel, Regular B DAS are defined as 27.5 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section.

(ii) *Reserve B DAS—(A) Restrictions on use.* Reserve B DAS can only be used in an approved SAP, as specified in § 648.85.

(B) *Calculation.* Reserve B DAS are calculated as follows:

(1) For the 2004 and 2005 fishing years, Reserve B DAS are defined as 20 percent of the vessel's DAS baseline specified under paragraph (c)(1) of this section.

(2) For the 2006 through 2008 fishing years, Reserve B DAS are defined as 22.5 percent of the vessel's DAS baseline specified under paragraph (c)(1) of this section.

(3) For fishing year 2009 (May 1, 2009, through April 30, 2010), Reserve B DAS are defined as 27.5 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section.

(4) Starting in fishing year 2010 (beginning May 1, 2010), Reserve B DAS are defined as follows:

(i) For a common pool vessel, Reserve B DAS are defined as 36.25 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section, unless otherwise revised pursuant to paragraph (n)(1) of this section.

(ii) For a sector vessel, Reserve B DAS are defined as 27.5 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section.

(3) *Category C DAS—(i) Restriction on use.* Category C DAS are reserved and may not be fished.

(ii) *Calculation.* Category C DAS are defined as the difference between a vessel's used DAS baseline, as described in paragraph (c)(1) of this section, and the number of DAS allocated to the vessel as of May 1, 2001.

(e) *Accrual of DAS.* (1) When a vessel is participating in the NE multispecies DAS program, as required by the regulations in this part, NE multispecies DAS shall accrue as specified in paragraphs (e)(1)(i) and (ii) of this section and shall be based upon the time called, or logged into the DAS program, consistent with the DAS notification requirements specified in

§ 648.10. For the purpose of calculating trip limits specified in this part, the amount of DAS deducted from a vessel's DAS allocation shall determine the amount of fish the vessel can land legally.

(i) *Common pool vessels.* For a common pool vessel, Category A DAS shall accrue in 24-hr increments, unless otherwise required under paragraphs (n) or (o) of this section. For example, a vessel that fished from 6 a.m. to 10 p.m. would be charged 24 hr of Category A DAS, not 16 hr; a vessel that fished for 25 hr would be charged 48 hr of Category A instead of 25 hr.

(ii) [Reserved]

(2) [Reserved]

(3) *Regular B DAS Program 24-hr clock.*

For a vessel electing to fish in the Regular B DAS Program, as specified at § 648.85(b)(6), that remains fishing under a Regular B DAS for the entire fishing trip (without a DAS flip), DAS shall accrue at the rate of 1 full DAS for each calendar day, or part of a calendar day fished. For example, a vessel that fished on 1 calendar day from 6 a.m. to 10 p.m. would be charged 24 hr of Regular B DAS, not 16 hr; a vessel that left on a trip at 11 p.m. on the first calendar day and returned at 10 p.m. on the second calendar day would be charged 48 hr of Regular B DAS instead of 23 hr, because the fishing trip would have spanned 2 calendar days. For the purpose of calculating trip limits specified under § 648.86, the amount of DAS deducted from a vessel's DAS allocation shall determine the amount of fish the vessel can land legally. For a vessel electing to fish in the Regular B DAS Program, as specified at § 648.85(b)(6), while also fishing in an area subject to differential DAS counting pursuant to paragraph (n)(1)(i) of this section, Category B DAS shall accrue at the rate described in this paragraph (e)(3), unless the vessel flips to a Category A DAS, in which case the vessel is subject to the pertinent DAS accrual restrictions of paragraph (n)(1) of this section for the entire trip. For vessels electing to fish in both the Regular B DAS Program, as specified in § 648.85(b)(8), and in the Eastern U.S./Canada Area, as specified in § 648.85(a), DAS counting will begin and end ac-

cording to the DAS rules specified in § 648.10(e)(5)(iv).

(f) *Good Samaritan credit.* See § 648.53(g).

(g) *Spawning season restrictions.* A vessel issued a valid Small Vessel or Handgear A category permit specified in paragraphs (b)(5) or (b)(6) of this section, respectively, or a vessel issued an open access Handgear B permit, as specified in § 648.88(a), may not fish for, possess, or land regulated species or ocean pout from March 1 through March 20 of each year. A common pool vessel must declare out and be out of the NE multispecies DAS program, and a sector must declare that the vessel will not fish with gear capable of catching NE multispecies (i.e., gear that is not defined as exempted gear under this part), for a 20-day period between March 1 and May 31 of each calendar year, using the notification requirements specified in § 648.10. A vessel fishing under a Day gillnet category designation is prohibited from fishing with gillnet gear capable of catching NE multispecies during its declared 20-day spawning block, unless the vessel is fishing in an exempted fishery, as described in § 648.80. If a vessel owner has not declared and been out of the fishery for a 20-day period between March 1 and May 31 of each calendar year on or before May 12 of each year, the vessel is prohibited from fishing for, possessing or landing any regulated species, ocean pout, or non-exempt species during the period May 12 through May 31, inclusive.

(h) *Declaring DAS and blocks of time out.* A vessel's owner or authorized representative shall notify the Regional Administrator of a vessel's participation in the DAS program; declaration of its 120 days out of the non-exempt gillnet fishery, if designated as a Day gillnet category vessel, as specified in paragraph (j) of this section; and declaration of its 20-day period out of the NE multispecies DAS program, or, for a sector vessel that the vessel will not fish with gear capable of catching NE multispecies, using the notification requirements specified in § 648.10.

(i) [Reserved]

(j) *Gillnet restrictions.* A vessel issued a limited access NE multispecies permit may fish under a NE multispecies

DAS, under the provisions of the small vessel permit category, or on a sector trip with gillnet gear, provided the owner of the vessel obtains an annual designation as either a Day or Trip gillnet vessel, as described in § 648.4(c)(2)(iii), and provided the vessel complies with the gillnet vessel gear requirements and restrictions specified in § 648.80.

(1) *Day gillnet vessels.* Unless otherwise exempted in this part, a Day gillnet vessel fishing with gillnet gear under a NE multispecies DAS, the provisions of a small vessel permit category, or on a sector trip is not required to remove gear from the water upon returning to the dock and calling out of the DAS program, as appropriate, provided the vessel complies with the restrictions specified in paragraphs (j)(1)(i) through (iii) of this section. Vessels electing to fish under the Day gillnet designation must have on board written confirmation, issued by the Regional Administrator, that the vessel is a Day gillnet vessel.

(i) *Removal of gear.* All gillnet gear must be brought to port prior to the vessel fishing in an exempted fishery.

(ii) *Declaration of time out of the gillnet fishery.* (A) During each fishing year, a Day gillnet vessel must declare, and take, a total of 120 days out of the non-exempt gillnet fishery. Each period of time declared and taken must be a minimum of 7 consecutive days. At least 21 days of this time must be taken between June 1 and September 30 of each fishing year. The spawning season time out period required by paragraph (g) of this section shall be credited toward the 120 days time out of the non-exempt gillnet fishery. If a vessel owner has not declared and taken any or all of the remaining periods of time required to be out of the fishery by the last possible date to meet these requirements, the vessel is prohibited from fishing for, possessing, or landing regulated multispecies, ocean pout, or non-exempt species harvested with gillnet gear and from having gillnet gear on board the vessel that is not stowed in accordance with § 648.23(b) while fishing under a NE multispecies DAS, the provisions of the small vessel category permit, or on a sector trip from that date through the

end of the period between June 1 and September 30, or through the end of the fishing year, as applicable, unless otherwise exempt pursuant to § 648.87.

(B) Any such vessel shall declare its required time periods through the notification procedures specified in § 648.10(j)(2).

(C) During each period of time declared out, any such vessel is prohibited from fishing with non-exempted gillnet gear and must remove such gear from the water. However, the vessel may fish in an exempted fishery, as described in § 648.80, or it may fish under a NE multispecies DAS, under the provisions of the small vessel category permit, or on a sector trip, provided it fishes with gear other than non-exempted gillnet gear.

(iii) *Method of counting DAS.* A Day gillnet vessel fishing with gillnet gear under a NE multispecies DAS shall accrue DAS as follows:

(A) A Day gillnet vessel fishing with gillnet gear that has elected to fish in the Regular B DAS Program, as specified in § 648.85(b)(6), under a Category B DAS, is subject to the DAS accrual provisions of paragraph (e)(1)(i) of this section.

(B) A Day gillnet vessel fishing with gillnet gear under a NE multispecies Category A DAS shall accrue DAS as follows:

(1) A Day gillnet vessel on a common pool trip is subject to the DAS accrual provisions of paragraph (e)(1)(i) of this section.

(2) A Day gillnet vessel on a sector trip is subject to the DAS accrual provisions of paragraph (e)(1)(ii) of this section.

(2) *Trip gillnet vessels.* When fishing under a NE multispecies DAS, under the provisions of the small vessel category permit, or on a sector trip, a Trip gillnet vessel is required to remove all gillnet gear from the water before returning to port upon the completion of a fishing trip and calling out of a NE multispecies DAS, as applicable, under § 648.10(e)(5) or (h)(5), respectively. When not fishing under a NE multispecies DAS, Trip gillnet vessels may fish in an exempted fishery with gillnet gear, as authorized by § 648.80. Vessels electing to fish under the Trip gillnet designation must have on board

written confirmation issued by the Regional Administrator that the vessel is a Trip gillnet vessel.

(k) *NE Multispecies DAS Leasing Program*—(1) *Program description*. Eligible vessels, as specified in paragraph (k)(2) of this section, may lease Category A DAS to and from other eligible vessels, in accordance with the restrictions and conditions of this section. The Regional Administrator has final approval authority for all NE multispecies DAS leasing requests.

(2) *Eligible vessels*. (i) A vessel issued a valid limited access NE multispecies permit is eligible to lease Category A DAS to or from another such vessel, subject to the conditions and requirements of this part, unless the vessel was issued a valid Small Vessel or Handgear A permit specified under paragraphs (b)(5) and (6) of this section, respectively, or is a valid participant in an approved Sector, as described in § 648.87(a). Any NE multispecies vessel that does not require use of DAS to fish for regulated multispecies may not lease any NE multispecies DAS.

(ii) Subject to the conditions and requirements of this part, DAS associated with a confirmation of permit history may be leased to another vessel without placing the permit on an active vessel.

(3) *Application to lease NE multispecies DAS*—(i) *Application information requirements*. An application to lease Category A DAS must contain the following information: Lessor's owner name, vessel name, permit number and official number or state registration number; Lessee's owner name, vessel name, permit number and official number or state registration number; number of NE multispecies DAS to be leased; total priced paid for leased DAS; signatures of Lessor and Lessee; and date form was completed. Information obtained from the lease application will be held confidential, according to applicable Federal law. Aggregate data may be used in the analysis of the DAS Leasing Program.

(ii) *Approval of lease application*. Unless an application to lease Category A DAS is denied according to paragraph (k)(3)(iii) of this section, the Regional Administrator shall issue confirmation of application approval to both Lessor

and Lessee within 45 days of receipt of an application.

(iii) *Denial of lease application*. The Regional Administrator may deny an application to lease Category A DAS for any of the following reasons, including, but not limited to: The application is incomplete or submitted past the March 1 deadline; the Lessor or Lessee has not been issued a valid limited access NE multispecies permit or is otherwise not eligible; the Lessor's or Lessee's DAS are under sanction pursuant to an enforcement proceeding; the Lessor's or Lessee's vessel is prohibited from fishing; the Lessor's or Lessee's limited access NE multispecies permit is sanctioned pursuant to an enforcement proceeding; the Lessor or Lessee vessel is determined not in compliance with the conditions, restrictions, and requirements of this part; or the Lessor has an insufficient number of allocated or unused DAS available to lease. Upon denial of an application to lease NE multispecies DAS, the Regional Administrator shall send a letter to the applicants describing the reason(s) for application rejection. The decision by the Regional Administrator is the final agency decision.

(4) *Conditions and restrictions on leased DAS*—(i) *Confirmation of permit history*. Pursuant to paragraph (k)(2)(ii) of this section, DAS associated with a confirmation of permit history may be leased.

(ii) *Sub-leasing*. In a fishing year, a Lessor or Lessee vessel may not sub-lease DAS that have already been leased to another vessel. Any portion of a vessel's DAS may not be leased more than one time during a fishing year.

(iii) *Carry-over of leased DAS*. Leased DAS that remain unused at the end of the fishing year may not be carried over to the subsequent fishing year by the Lessor or Lessee vessel.

(iv) [Reserved]

(v) *History of leased DAS use*. The history of leased DAS use shall be presumed to remain with the Lessor vessel. In the case of multiple leases to one vessel, the history of leased DAS use shall be presumed to remain with the Lessor in the order in which such leases were approved by NMFS. For the

purpose of accounting for leased DAS use, leased DAS will be accounted for (subtracted from available DAS) prior to allocated DAS.

(vi) *Monkfish Category C, D, F, G and H vessels.* A vessel that possesses a valid limited access NE multispecies DAS permit and a valid limited access monkfish Category C, D, F, G, or H permit and leases NE multispecies DAS to or from another vessel is subject to the restrictions specified in § 648.92(b)(2).

(vii) *DAS Category restriction.* A vessel may lease only Category A DAS, as described under paragraph (d)(1) of this section.

(viii) *Duration of lease.* A vessel leasing DAS may only fish those leased DAS during the fishing year in which they were leased.

(ix) *Size restriction of Lessee vessel.* A Lessor vessel only may lease DAS to a Lessee vessel with a baseline main engine horsepower rating that is no more than 20 percent greater than the baseline engine horsepower of the Lessor vessel. A Lessor vessel may only lease DAS to a Lessee vessel with a baseline length overall that is no more than 10 percent greater than the baseline length overall of the Lessor vessel. For the purposes of this program, the baseline horsepower and length overall specifications of vessels are those associated with the permit as of January 29, 2004, unless otherwise modified according to paragraph (k)(4)(xi) of this section.

(x) *Leasing by vessels fishing under a sector allocation.* A sector vessel may not lease DAS to or from common pool vessels, but may lease DAS to or from another sector vessel during the fishing year in which the vessel is a member of a sector.

(xi) *One-time downgrade of DAS Leasing Program baseline.* Unless otherwise specified in paragraph (k)(4)(xi)(B) and (C) of this section, for the purposes of determining eligibility for leasing DAS only, a vessel owner may elect to make a one-time downgrade to the vessel's DAS Leasing Program baseline length and horsepower as specified in paragraph (k)(4)(ix) of this section to match the length overall and horsepower specifications of the vessel that is currently issued the permit.

(A) *Application for a one-time DAS Leasing Program baseline downgrade.* To downgrade the DAS Leasing Program baseline, eligible NE multispecies vessels must submit a completed application form obtained from the Regional Administrator. An application to downgrade a vessel's DAS Leasing Program baseline must contain at least the following information: Vessel owner's name, vessel name, permit number, official number or state registration number, current vessel length overall and horsepower specifications, an indication whether additional information is included to document the vessel's current specifications, and the signature of the vessel owner.

(B) *Applicability of the one-time DAS Leasing Program baseline downgrade.* The downgraded DAS Leasing Program baseline may only be used to determine eligibility for the DAS Leasing Program and does not affect or change the baseline associated with the DAS Transfer Program specified in paragraph (l)(1)(ii) of this section, or the vessel replacement or upgrade restrictions specified at § 648.4(a)(1)(i)(E) and (F), or any other provision.

(C) *Duration of the one-time DAS Leasing Program baseline downgrade.* Unless otherwise specified in this paragraph (k)(4)(xi)(C) of this section, the downgraded DAS Leasing Program baseline remains in effect until the DAS Leasing Program expires or the permit is transferred to another vessel via a vessel replacement, or through a DAS transfer. With the exception of vessels combining DAS Leasing Program baselines from two different vessels through the DAS Transfer Program as outlined in paragraph (k)(4)(xi)(C)(2) of this section, once the DAS Leasing Program baseline is downgraded for a particular permit, no further downgrades may be authorized for that permit.

(1) *Vessel replacement.* If the permit is transferred to another vessel via a vessel replacement, the DAS Leasing Program baseline reverts to the baseline horsepower and length overall specifications associated with the permit prior to the one-time downgrade.

(2) *DAS Transfer Program.* For vessels involved in a DAS Transfer Program transaction as described in paragraph

(l) of this section, if the transferee vessel baseline is adopted, consistent with the regulations under paragraph (1)(1)(ii) of this section, and the DAS Leasing Program baseline of the transferee vessel was previously downgraded, consistent with the regulations under this paragraph (k)(4)(xi), the downgraded DAS Leasing Program baseline specifications remain valid. For vessels involved in a DAS Transfer Program transaction where a combination of the transferor and transferee vessel baselines is adopted resulting in a new vessel baseline, any previous DAS Leasing Program baseline downgrade for either the transferor or transferee vessel will be voided and the transferee vessel would have an additional opportunity to downgrade its combined DAS Leasing Program baseline.

(1) *DAS Transfer Program.* Except for vessels fishing under a sector allocation as specified in § 648.87, or a vessel that acted as a lessee or lessor in the DAS Leasing Program transaction, a vessel issued a valid limited access NE multispecies permit may transfer all of its NE multispecies DAS for an indefinite time to another vessel with a valid NE multispecies permit, in accordance with the conditions and restrictions described under this section. The Regional Administrator has final approval authority for all NE multispecies DAS transfer requests.

(1) *DAS transfer conditions and restrictions.* (i) The transferor vessel must transfer all of its DAS. Upon approval of the DAS transfer, all history associated with the transferred NE multispecies DAS (moratorium right history, DAS use history, and catch history) shall be associated with the permit rights of the transferee. Neither the individual permit history elements, nor total history associated with the transferred DAS may be retained by the transferor.

(ii) NE multispecies DAS may be transferred only to a vessel with a baseline main engine horsepower rating that is no more than 20 percent greater than the baseline engine horsepower of the transferor vessel. NE multispecies DAS may be transferred only to a vessel with a baseline length overall that is no more than 10 percent

greater than the baseline length overall of the transferor vessel. For the purposes of this program, the baseline horsepower and length overall are those associated with the permit as of January 29, 2004. Upon approval of the transfer, the baseline of the transferee vessel would be the smaller baseline of the two vessels or, if the transferee vessel had not previously upgraded either its size (including LOA, GRT, and NT) or HP under the vessel replacement rules, the vessel owner could choose to adopt the larger baseline of the two vessels, which would constitute the vessel's one-time upgrade, provided such an upgrade is consistent with provisions of this paragraph (1)(1)(ii). A subsequent upgrade to another specification through a subsequent action (either a vessel replacement or DAS transfer) is not permissible. A vessel that has executed a one-time downgrade of a DAS Leasing Program baseline in accordance with paragraph (k)(4)(xi) is subject to the restrictions of paragraph (k)(4)(xi)(C) of this section.

(iii) The transferor vessel must transfer all of its Federal limited access permits for which it is eligible to the transferee vessel in accordance with the vessel replacement restrictions under § 648.4, or permanently cancel such permits. When duplicate permits exist, i.e., those permits for which both the transferor and transferee vessel are eligible, one of the duplicate permits must be permanently cancelled.

(iv) [Reserved]

(v) In any particular fishing year, a vessel may not execute a DAS transfer as a transferor if it previously participated in the DAS Leasing Program as either a lessee or a lessor, as described under paragraph (k) of this section. A vessel may participate in DAS lease transaction (as a lessee or a lessor) and submit an application for a DAS transfer (as a transferor) during the same fishing year, but the transfer, if approved, would not be effective until the beginning of the following fishing year. Other combinations of activities under the DAS Leasing and DAS Transfer programs are permissible during the same fishing year (i.e., act as a transferee, or act as transferor and subsequently conduct a DAS lease).

(vi) *Confirmation of permit history.* NE multispecies DAS associated with a Confirmation of Permit History may be transferred.

(vii) *Transfer by sector vessels.* A sector vessel may not transfer DAS to or from vessels that are fishing under the provisions of the common pool or another sector, but may transfer DAS to or from another vessel participating in that vessel's sector during the fishing year in which the vessel is a member of a particular sector.

(viii) Unless otherwise restricted by this part, a vessel with a NE multispecies limited access Category D permit may transfer DAS only to a vessel with a NE multispecies limited access Category D permit, but may receive transferred DAS from any eligible NE multispecies vessel.

(2) *Application to transfer DAS.* Owners of the vessels applying to transfer and receive DAS must submit a completed application form obtained from the Regional Administrator. The application must be signed by both seller/transferor and buyer/transferee of the DAS, and submitted to the Regional Office at least 45 days before the date on which the applicant desires to have the DAS effective on the buying vessel. The Regional Administrator will notify the applicants of any deficiency in the application pursuant to this section. Applications may be submitted at any time during the fishing year, up until March 1.

(i) *Application information requirements.* An application to transfer NE multispecies DAS must contain the following information: Seller's/transferor's name, vessel name, permit number and official number or state registration number; buyer's/transferee's name, vessel name, permit number and official number or state registration number; total price paid for purchased DAS; signatures of seller and buyer; and date the form was completed. Information obtained from the transfer application will be held confidential, and will be used only in summarized form for management of the fishery.

(ii) *Approval of transfer application.* Unless an application to transfer NE multispecies DAS is denied according to paragraph (1)(2)(iii) of this section, the Regional Administrator shall issue

confirmation of application approval to both seller/transferor and buyer/transferee within 45 days of receipt of an application.

(iii) *Denial of transfer application.* The Regional Administrator may reject an application to transfer NE multispecies DAS for the following reasons: The application is incomplete or submitted past the March 1 deadline; the seller/transferor or buyer/transferee does not possess a valid limited access NE multispecies permit; the seller's/transferor's or buyer's/transferee's DAS is sanctioned, pursuant to an enforcement proceeding; the seller's/transferor's or buyer's/transferee's vessel is prohibited from fishing; the seller's/transferor's or buyer's/transferee's limited access NE multispecies permit is sanctioned pursuant to enforcement proceedings; or the seller/transferor has a DAS baseline of zero. Upon denial of an application to transfer NE multispecies DAS, the Regional Administrator shall send a letter to the applicants describing the reason(s) for application rejection. The decision by the Regional Administrator is the final agency decision and there is no opportunity to appeal the Regional Administrator's decision.

(m) *DAS credit for standing by entangled whales.* Limited access vessels fishing under the DAS program that report and stand by an entangled whale may request a DAS credit for the time spent standing by the whale. The following conditions and requirements must be met to receive this credit:

(1) At the time the vessel begins standing by the entangled whale, the vessel operator must notify the USCG and the Center for Coastal Studies, or another organization authorized by the Regional Administrator, of the location of the entangled whale and that the vessel is going to stand by the entangled whale until the arrival of an authorized response team;

(2) Only one vessel at a time may receive credit for standing by an entangled whale. A vessel standing by an entangled whale may transfer its standby status to another vessel while waiting for an authorized response team to arrive, provided it notifies the USCG and the Center for Coastal Studies, or another organization authorized by the

Regional Administrator, of the transfer. The vessel to which stand-by status is transferred must also notify the USCG and the Center for Coastal Studies or another organization authorized by the Regional Administrator of this transfer and comply with the conditions and restrictions of this part;

(3) The stand-by vessel must be available to answer questions on the condition of the animal, possible species identification, severity of entanglement, etc., and take photographs of the whale, if possible, regardless of the species of whale or whether the whale is alive or dead, during its stand-by status and after terminating its stand-by status. The stand-by vessel must remain on scene until the USCG or an authorized response team arrives, or the vessel is informed that an authorized response team will not arrive. If the vessel receives notice that a response team is not available, the vessel may discontinue standing-by the entangled whale and continue fishing operations; and

(4) To receive credit for standing by an entangled whale, a vessel must submit a written request to the Regional Administrator. This request must include at least the following information: Date and time when the vessel began its stand-by status, date of first communication with the USCG, and date and time when the vessel terminated its stand-by status. DAS credit shall not be granted for the time a vessel fishes when standing by an entangled whale. Upon a review of the request, NMFS shall consider granting the DAS credit based on information available at the time of the request, regardless of whether an authorized response team arrives on scene or a rescue is attempted. NMFS shall notify the permit holder of any DAS adjustment that is made or explain the reasons why an adjustment will not be made.

(n) *NE multispecies common pool accountability measure (AM)*. Common pool vessels are subject to the following AMs, in addition to the DAS accrual provisions specified in paragraph (e) of this section and other measures specified in this part.

(1) *Differential DAS counting AM for fishing years 2010 and 2011*. Unless other-

wise specified pursuant to § 648.90(a)(5), based upon catch and other information available to NMFS by February of each year, the Regional Administrator shall project the catch of regulated species or ocean pout by common pool vessels for the fishing year ending on April 30 and shall determine whether such catch will exceed any of the sub-ACLs specified for common pool vessels pursuant to § 648.90(a)(4). This projection shall be updated once available information regarding the catch of regulated species and ocean pout by vessels fishing for groundfish in state waters outside of the FMP, vessels fishing in exempted fisheries, and vessels fishing in the Atlantic sea scallop fishery to determine if excessive catch by such vessels resulted in the overall ACL for a particular stock to be exceeded. If such catch resulted in the overall ACL for a particular stock being exceeded, the common pool's share of the overage of the overall ACL for that stock shall be added to the catch of each stock of regulated species or ocean pout by common pool vessels pursuant to § 648.90(a)(5). If the Regional Administrator projects that any of the sub-ACLs specified for common pool vessels will be exceeded or underharvested, the Regional Administrator shall implement a differential DAS counting factor to all Category A DAS used within the stock area in which the sub-ACL was exceeded or underharvested, as specified in paragraph (n)(1)(i) of this section, during the following fishing year, in a manner consistent with the Administrative Procedure Act. The differential DAS counting factor shall be based upon the projected proportion of the sub-ACL of each NE multispecies stock caught by common pool vessels, rounded to the nearest even tenth, as specified in paragraph (n)(1)(ii) of this section, unless otherwise specified pursuant to § 648.90(a)(5). For example, if the Regional Administrator projects that common pool vessels will catch 1.18 times the sub-ACL for GOM cod during fishing year 2010, the Regional Administrator shall implement a differential DAS counting factor of 1.2 to all Category A DAS used by common pool vessels only within the Inshore GOM Differential DAS Area during fishing year 2011 (i.e., Category A DAS

will be charged at a rate of 28.8 hr for every 24 hr fished—1.2 times 24-hr DAS counting). If it is projected that catch in a particular fishing year will exceed or underharvest the sub-ACLs for several regulated species stocks within a particular stock area, including both exceeding and underharvesting several sub-ACLs within a particular stock area, the Regional Administrator shall implement the most restrictive differential DAS counting factor derived from paragraph (n)(1)(ii) of this section for the sub-ACLs exceeded or underharvested to any Category A DAS used by common pool vessels within that particular stock area. For example, if it is projected that common pool vessels will be responsible for 1.2 times the GOM cod sub-ACL and 1.1 times the CC/GOM yellowtail flounder sub-ACL, the Regional Administrator shall implement a differential DAS counting factor of 1.2 to any Category A DAS fished by common pool vessels only within the Inshore GOM Differential DAS Area during the following fishing year. For any differential DAS counting factor implemented in fishing year 2011, the differential DAS counting factor shall be applied against the DAS accrual provisions specified in paragraph (e)(1)(i) of this section for the time spent fishing in the applicable differential DAS counting area based upon the first VMS position into the applicable differential DAS counting area and the first VMS position outside of the applicable differential DAS counting area pursuant to § 648.10. For example, if a vessel fished 12 hr inside a differential DAS counting area where a differential DAS counting factor of 1.2 would be applied, and 12 hr outside of the differential DAS counting area, the vessel would be charged 48 hr of DAS use because DAS would be charged in 24-hr increments ((12 hr inside the area \times 1.2 = 14.4 hr) + 12 hr outside the area, rounded to the next 24-hr increment to determine DAS charged). For any differential DAS counting factor implemented in fishing year 2012, the differential DAS counting factor shall be applied against the DAS accrual provisions specified in paragraph (e)(1)(i) of this section, or if a differential DAS counting factor was implemented for that stock area during fishing year

2011, against the DAS accrual rate applied in fishing year 2011. For example, if a differential DAS counting factor of 1.2 was applied to the Inshore GOM Differential DAS Area during fishing year 2011 due to a 20-percent overage of the GOM cod sub-ACL, yet the GOM cod sub-ACL was exceeded again, but by 50 percent during fishing year 2011, an additional differential DAS factor of 1.5 would be applied to the DAS accrual rate applied during fishing year 2012 (i.e., the DAS accrual rate in the Inshore GOM Differential DAS Counting Area during fishing year 2012 would be 43.2 hr charged for every 24-hr fished—1.2 \times 1.5 \times 24-hr DAS charge). If the Regional Administrator determines that similar DAS adjustments are necessary in all stock areas, the Regional Administrator will adjust the ratio of Category A:Category B DAS specified in paragraph (d)(1) of this section to reduce the number of available Category A DAS available based upon the amount of the overage, rather than apply a differential DAS counting factor to all Category A DAS used in all stock areas.

(i) *Differential DAS counting areas.* The following differential DAS counting areas shall be used for the purposes of implementing the differential DAS counting AM specified in paragraph (n)(1) of this section:

(A) *Inshore GOM Differential DAS Area.* The Inshore GOM Differential DAS Area applies to the following stocks of regulated species: White hake, pollock, GOM cod, GOM haddock, CC/GOM yellowtail flounder, GOM winter flounder, and Atlantic wolffish. The Inshore GOM Differential DAS Area is defined as the area bounded on the west by the shoreline of the United States and bounded on the east by straight lines connecting the following points in the order stated:

INSHORE GOM DIFFERENTIAL DAS AREA

Point	N. latitude	W. longitude
INGOM1	(1)	69°30'
INGOM2	43°00'	69°30'
INGOM3	43°00'	70°00'
INGOM4	(2)	70°00'

¹ Intersection with ME shoreline.

² North-facing shoreline of Cape Cod, MA.

(B) *Offshore GOM Differential DAS Area.* The Offshore GOM Differential

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DAS Area applies to the following stocks of regulated species: GOM had-dock, white hake, pollock, redfish, witch flounder, American plaice, and Atlantic halibut. The Offshore GOM Differential DAS Area is defined as the area bounded on the north by the shoreline of Maine, bounded on the east by the U.S./Canadian maritime bound-ary, and bounded on the south and west by straight lines connecting the fol-lowing points in the order stated:

OFFSHORE GOM DIFFERENTIAL DAS AREA

Point	N. latitude	W. longitude
CI13	42°22'	67°20'
OFFGOM1	42°20'	67°20'
OFFGOM2	42°20'	70°00'
OFFGOM5	43°00'	70°00'
INGOM2	43°00'	69°30'
INGOM1	(¹)	69°30'

¹ Intersection with ME shoreline.

(C) *Inshore GB Differential DAS Area.* The Inshore GB Differential DAS Area applies to the following stocks of regu-lated species: Witch flounder, Amer-ican plaice, white hake, Atlantic hal-ibut, redfish, pollock, CC/GOM yellowtail flounder, GB cod, GB had-dock, SNE/MA winter flounder, and At-lantic wolffish. The Inshore GB Dif-ferential DAS Area is defined as the area bounded by straight lines con-necting the following points in the order stated:

INSHORE GB DIFFERENTIAL DAS AREA

Point	N. latitude	W. longitude
G9	(¹)	70°00'
G10	42°20'	70°00'
IGB1	42°20'	68°50'
IGB2	41°00'	68°50'
IGB3	41°00'	69°30'
IGB4	41°10'	69°30'
IGB5	41°10'	69°50'
IGB6	41°20'	69°50'
IGB7	41°20'	70°00'
G12	(²)	70°00'

¹The intersection of the Cape Cod, MA, coastline and 70°00' W. longitude.

² South-facing shoreline of Cape Cod, MA.

(D) *Offshore GB Differential DAS Area.* The Offshore GB Differential DAS Area applies to the following stocks of regu-lated species: Witch flounder, Amer-ican plaice, Atlantic halibut, northern windowpane flounder, GB cod, GB had-dock, GB yellowtail flounder, and GB winter flounder. The Offshore GB Dif-ferential DAS Area is defined as the

area bounded on the east by the U.S./ Canadian maritime boundary and straight lines connecting the following points in the order stated:

OFFSHORE GB DIFFERENTIAL DAS AREA

Point	N. latitude	W. longitude
IGB1	42°20'	68°50'
OGB1	42°20'	67°20'
CI13	(¹)	67°20'
OGB2	40°10'	(¹)
OGB3	40°10'	68°50'
IGB1	42°20'	68°50'

¹ The U.S./Canada maritime boundary as it intersects with the EEZ.

(E) *SNE/MA Differential DAS Area.* The SNE/MA Differential DAS Area ap-plies to the following stocks of regu-lated species or ocean pout: SNE/MA winter flounder, SNE/MA yellowtail flounder, southern windowpane floun-der, and ocean pout. The SNE/MA Dif-ferential DAS Area is defined as the area bounded on the north and west by the coastline of the United States, bounded on the east and south by straight lines connecting the following points in the order stated:

SNE/MA DIFFERENTIAL DAS AREA

Point	N. latitude	W. longitude
G12	(¹)	70°00'
IGB7	41°20'	70°00'
IGB6	41°20'	69°50'
IGB5	41°10'	69°50'
IGB4	41°10'	69°30'
IGB3	41°00'	69°30'
IGB2	41°00'	68°50'
SNEDA1	40°10'	68°50'
SNEDA2	40°10'	73°10'
SNEDA3	39°50'	73°10'
SNEDA4	39°50'	(²)

¹ South-facing shoreline of Cape Cod, MA.

² East-facing shoreline of NJ.

(ii) *Differential DAS counting factor.* For determining the differential DAS counting AM specified in this para-graph (n)(1), or the inseason differen-tial DAS counting adjustment specified in paragraph (o) of this section, the fol-lowing differential DAS factor shall, except as provided in paragraph (n)(1)(iii) of this section, be applied to the DAS accrual rate specified in para-graph (e)(1) of this section, and imple-mented in a manner consistent with the Administrative Procedure Act.

Proportion of ACL caught	Differential DAS factor
0.5	0.5

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Proportion of ACL caught	Differential DAS factor
0.6	0.6
0.7	0.7
0.8	0.8
0.9	No change
1.0	No change
1.1	1.1
1.2	1.2
1.3	1.3
1.4	1.4
1.5	1.5
1.6	1.6
1.7	1.7
1.8	1.8
1.9	1.9
2.0	2.0

(iii) *Mixed-stock exception.* When determining the differential DAS counting AM specified in this paragraph (n)(1), the Regional Administrator shall conduct an analysis to determine whether the mixed-stock exception, as specified in §600.310(m), may be applicable. If the analysis concludes that the mixed-stock exception is applicable, the Regional Administrator shall modify or not apply a differential DAS counting AM on specific stocks, as ap-

propriate, in accordance with the mixed-stock exception.

(iv) *Fishing year 2012.* Any adjustments to DAS counting necessary as a result of either underharvesting or overharvesting any of the sub-ACLs specified for common pool vessels during the 2011 fishing year pursuant to §648.90(a)(4) shall become effective and remain effective for the duration of fishing year 2012 in addition to the implementation of the trimester TAC AM specified in paragraph (n)(2) of this section.

(2) *Trimester TAC AM for fishing years 2012 and beyond.* Beginning in fishing year 2012, common pool vessels shall be subject to the following restrictions:

(i) *Trimester TACs—(A) Trimester TAC distribution.* Any sub-ACLs specified for common pool vessels pursuant to §648.90(a)(4) shall be apportioned into trimesters of four months in duration, beginning at the start of the fishing year (i.e., Trimester 1: May 1–August 31; Trimester 2: September 1–December 31; Trimester 3: January 1–April 30), as follows):

PORTION OF COMMON POOL SUB-ACLs APPORTIONED TO EACH STOCK FOR EACH TRIMESTER

Stock	Trimester 1 (percent)	Trimester 2 (percent)	Trimester 3 (percent)
GOM Cod	27	36	37
GB Cod	25	37	38
GOM Haddock	27	26	47
GB Haddock	27	33	40
CC/GOM Yellowtail Flounder	35	35	30
GB Yellowtail Flounder	19	30	52
SNE/MA Yellowtail Flounder	21	37	42
GOM Winter Flounder	37	38	25
GB Winter Flounder	8	24	69
SNE/MA Winter Flounder	36	50	14
Witch Flounder	27	31	42
American Plaice	24	36	40
Pollock	28	35	37
Redfish	25	31	44
White Hake	38	31	31
Northern Windowpane Flounder	33	33	34
Southern Windowpane Flounder	33	33	34
Ocean Pout	33	33	34
Atlantic Halibut	33	33	34
Atlantic Wolffish	75	13	12

(B) *Trimester TAC adjustment.* The distribution of trimester TACs specified in paragraph (n)(2)(i)(A) of this section may be adjusted pursuant to the biennial adjustment process specified in §648.90. Future adjustments to the distribution of trimester TACs shall use catch data for the most recent 5-year

period prior to the reevaluation of trimester TACs.

(ii) *Stock area closures.* With the exception of both stocks of windowpane flounder, ocean pout, and Atlantic halibut, if the Regional Administrator projects that 90 percent of the trimester TACs specified in paragraph

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(n)(2)(i) of this section will be caught based upon available information, the Regional Administrator shall close the area where 90 percent of the catch for each such stock occurred, according to available VTR data and other information, to all common pool vessels using gear capable of catching such stocks for the remainder of that trimester, as specified in paragraphs (n)(2)(ii)(A) through (P) of this section, in a manner consistent with the Administrative Procedure Act. For example, if the Regional Administrator projects that 90 percent of the CC/GOM yellowtail flounder Trimester 1 TAC will be caught, common pool vessels using trawl and gillnet gear shall be prohibited from fishing in the CC/GOM Yellowtail Flounder Closure Area specified in paragraph (n)(2)(ii)(G) of this section until the beginning of Trimester 2 on September 1 of that fishing year. For both stocks of windowpane flounder, ocean pout, and Atlantic halibut, the Regional Administrator shall monitor catch of these stocks and shall deduct any projected overages of the sub-ACLs for such stocks pursuant to paragraph (n)(2)(iii) of this section, instead of implementing a stock area closure when a Trimester TAC for any of these stocks is projected to be caught. Based upon all available information, the Regional Administrator is authorized to expand or narrow the areas closed under this paragraph (n)(2)(ii) in a manner consistent with the Administrative Procedure Act. If it is not possible to identify an area where only 90 percent of the catch occurred, the Regional Administrator shall close the smallest area possible where greater than 90 percent of the catch occurred.

(A) *GB Cod Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GB Cod Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by straight lines connecting the following points in the order stated:

GB COD TRIMESTER TAC AREA

Point	N. latitude	W. longitude
GB1	42°20'	70°00'
GB2	42°20'	(¹)

GB COD TRIMESTER TAC AREA—Continued

Point	N. latitude	W. longitude
GB3	40°30'	(¹)
GB4	40°30'	66°40'
GB5	39°50'	66°40'
GB6	39°50'	68°50'
GB7	41°00'	68°50'
GB8	41°00'	69°30'
GB9	41°10'	69°30'
GB10	41°10'	69°50'
GB11	41°20'	69°50'
GB12	41°20'	(²)
GB13	(³)	70°00'
GB14	(⁴)	70°00'
GB15	(⁵)	70°00'
GB1	42°20'	70°00'

¹ U.S./Canada maritime boundary.

² East-facing shoreline of Nantucket, MA.

³ North-facing shoreline of Nantucket, MA.

⁴ South-facing shoreline of Cape Cod, MA.

⁵ North-facing shoreline of Cape Cod, MA.

(B) *GOM Cod Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GOM Cod Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded on the south, west, and north by the shoreline of the United States and bounded on the east by straight lines connecting the following points in the order stated:

GOM COD TRIMESTER TAC AREA

Point	N. latitude	W. longitude
GOM1	(¹)	69°20'
GOM2	43°40'	69°20'
GOM3	43°40'	69°00'
GOM4	43°20'	69°00'
GOM5	43°20'	69°10'
GOM6	43°00'	69°10'
GOM7	43°00'	69°20'
GOM8	42°50'	69°20'
GOM9	42°50'	69°40'
GOM10	42°20'	69°40'
GOM11	42°20'	70°00'
GOM12	(²)	70°00'

¹ Intersection with ME shoreline.

² North-facing shoreline of Cape Cod, MA.

(C) *GB Haddock Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GB Haddock Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by straight lines connecting the following points in the order stated:

GB HADDOCK TRIMESTER TAC AREA

Point	N. latitude	W. longitude
GB1	42°20'	70°00'
GB2	42°20'	(¹)
GB3	40°30'	(¹)
GB4	40°30'	66°40'
GB5	39°50'	66°40'
GB6	39°50'	68°50'
GB7	41°00'	68°50'
GB8	41°00'	69°30'
GB9	41°10'	69°30'
GB10	41°10'	69°50'
GB11	41°20'	69°50'
GB12	41°20'	(²)
GB13	(³)	70°00'
GB14	(⁴)	70°00'
GB15	(⁵)	70°00'
GB1	42°20'	70°00'

¹ U.S./Canada maritime boundary.

² East-facing shoreline of Nantucket, MA.

³ North-facing shoreline of Nantucket, MA.

⁴ South-facing shoreline of Cape Cod, MA.

⁵ North-facing shoreline of Cape Cod, MA.

(D) *GOM Haddock Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GOM Haddock Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded on the south, west, and north by the shoreline of the United States and bounded on the east by straight lines connecting the following points in the order stated:

GOM HADDOCK TRIMESTER TAC AREA

Point	N. latitude	W. longitude
GOM1	(¹)	69°20'
GOM2	43°40'	69°20'
GOM3	43°40'	69°00'
GOM4	43°20'	69°00'
GOM5	43°20'	67°40'
GOM6	(²)	67°40'
GOM7	42°53.1'	67°44.4'
GOM8	(²)	67°40'
GOM9	42°20'	67°40'
GOM10	42°20'	70°00'
GOM12	(³)	70°00'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ North-facing shoreline of Cape Cod, MA.

(E) *GB Yellowtail Flounder Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GB Yellowtail Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear and sink gillnet gear within the area bounded by straight lines connecting the following points in the order stated:

GB YELLOWTAIL FLOUNDER TRIMESTER TAC AREA

Point	N. latitude	W. longitude
GB1	42°20'	68°50'
GB2	42°20'	(¹)
GB3	40°30'	(¹)
GB4	40°30'	66°40'
GB5	39°50'	66°40'
GB6	39°50'	68°50'
GB1	42°20'	68°50'

¹ U.S./Canada maritime boundary.

(F) *SNE/MA Yellowtail Flounder Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the SNE/MA Yellowtail Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear and sink gillnet gear within the area bounded by straight lines connecting the following points in the order stated:

SNE/MA YELLOWTAIL FLOUNDER TRIMESTER TAC AREA

Point	N. latitude	W. longitude
SNEMA1	(¹)	70°00'
SNEMA2	(²)	70°00'
SNEMA3	(²)	70°00'
SNEMA4	39°50'	70°00'
SNEMA5	39°50'	71°40'
SNEMA6	40°00'	71°40'
SNEMA7	40°00'	73°00'
SNEMA8	(⁴)	73°00'
SNEMA9	41°00'	(⁵)
SNEMA10	41°00'	71°40'
SNEMA11	(⁶)	71°40'

¹ South-facing shoreline of Cape Cod, MA.

² North-facing shoreline of Nantucket, MA.

³ South-facing shoreline of Nantucket, MA.

⁴ South-facing shoreline of Long Island, NY.

⁵ East-facing shoreline of Long Island, NY.

⁶ Intersection with RI shoreline.

(G) *CC/GOM Yellowtail Flounder Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the CC/GOM Yellowtail Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear and sink gillnet gear within the area bounded by straight lines connecting the following points in the order stated:

CC/GOM YELLOWTAIL FLOUNDER TRIMESTER TAC AREA

Point	N. latitude	W. longitude
CCGOM1	42°50'	(¹)
CCGOM2	42°50'	69°40'
CCGOM3	42°20'	69°40'

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CC/GOM YELLOWTAIL FLOUNDER TRIMESTER TAC AREA—Continued

Point	N. latitude	W. longitude
CCGOM4	42°20'	68°50'
CCGOM5	41°00'	68°50'
CCGOM6	41°00'	69°30'
CCGOM7	41°10'	69°30'
CCGOM8	41°10'	69°50'
CCGOM9	41°20'	69°50'
CCGOM10	41°20'	(²)
CCGOM11	(³)	70°00'
CCGOM12	(⁴)	70°00'

¹ Intersection with MA shoreline.

² East-facing shoreline of Nantucket, MA.

³ North-facing shoreline of Nantucket, MA.

⁴ South-facing shoreline of MA.

(H) *American Plaice Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the American Plaice Trimester TAC Area shall apply to common pool vessels using trawl gear within the area bounded by straight lines connecting the following points in the order stated:

AMERICAN PLAICE TRIMESTER TAC AREA

Point	N. latitude	W. longitude
AP1	(¹)	68°00'
AP2	44°10'	67°50'
AP3	44°00'	67°50'
AP4	44°00'	67°40'
AP5	(²)	67°40'
AP6	42°53.1'	67°44.4'
AP7	(²)	67°40'
AP8	41°20'	67°40'
AP9	41°10'	67°40'
AP10	41°10'	67°10'
AP11	41°00'	67°10'
AP12	41°00'	67°00'
AP13	40°50'	67°00'
AP14	40°50'	66°50'
AP15	40°40'	66°50'
AP16	40°40'	66°40'
AP17	39°50'	66°40'
AP18	39°50'	68°50'
AP19	41°00'	68°50'
AP20	41°00'	69°30'
AP21	41°10'	69°30'
AP22	41°10'	69°50'
AP23	41°20'	69°50'
AP24	41°20'	(³)
AP25	(⁴)	70°00'
AP26	(⁵)	70°00'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ East-facing shoreline of Nantucket, MA.

⁴ North-facing shoreline of Nantucket, MA.

⁵ South-facing shoreline of Cape Cod, MA.

(I) *Witch Flounder Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the Witch Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear within the area bounded by

straight lines connecting the following points in the order stated:

WITCH FLOUNDER TRIMESTER TAC AREA

Point	N. latitude	W. longitude
AP1	(¹)	68°00'
AP2	44°10'	67°50'
AP3	44°00'	67°50'
AP4	44°00'	67°40'
AP5	(²)	67°40'
AP6	42°53.1'	67°44.4'
AP7	(²)	67°40'
AP8	41°20'	67°40'
AP9	41°10'	67°40'
AP10	41°10'	67°10'
AP11	41°00'	67°10'
AP12	41°00'	67°00'
AP13	40°50'	67°00'
AP14	40°50'	66°50'
AP15	40°40'	66°50'
AP16	40°40'	66°40'
AP17	39°50'	66°40'
AP18	39°50'	68°50'
AP19	41°00'	68°50'
AP20	41°00'	69°30'
AP21	41°10'	69°30'
AP22	41°10'	69°50'
AP23	41°20'	69°50'
AP24	41°20'	(³)
AP25	(⁴)	70°00'
AP26	(⁵)	70°00'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ East-facing shoreline of Nantucket, MA.

⁴ North-facing shoreline of Nantucket, MA.

⁵ South-facing shoreline of Cape Cod, MA.

(J) *GB Winter Flounder Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GB Winter Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear within the area bounded by straight lines connecting the following points in the order stated:

GB WINTER FLOUNDER TRIMESTER TAC AREA

Point	N. latitude	W. longitude
GB1	42°20'	68°50'
GB2	42°20'	67°40'
GB3	41°50'	67°40'
GB4	41°50'	(¹)
GB5	40°30'	(¹)
GB6	40°30'	66°40'
GB7	40°40'	66°40'
GB8	40°40'	66°50'
GB9	40°50'	66°50'
GB10	40°50'	67°00'
GB11	41°00'	67°00'
GB12	41°00'	67°10'
GB13	41°10'	67°10'
GB14	41°10'	67°40'
GB15	41°20'	67°40'
GB16	41°20'	68°10'
GB17	41°10'	68°10'
GB18	41°10'	68°20'
GB19	41°00'	68°20'
GB20	41°00'	68°50'

GB WINTER FLOUNDER TRIMESTER TAC
AREA—Continued

Point	N. latitude	W. longitude
GB1	42°20'	68°50'

¹ U.S./Canada maritime boundary.

(K) *GOM Winter Flounder Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GOM Winter Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear and sink gillnet gear within the area bounded by straight lines connecting the following points in the order stated:

GOM WINTER FLOUNDER TRIMESTER TAC AREA

Point	N. latitude	W. longitude
GOM1	42°50'	(¹)
GOM2	42°50'	69°40'
GOM3	42°20'	69°40'
GOM4	42°20'	70°00'
GOM5	(²)	70°00'

¹ Intersection with MA shoreline² North-facing shoreline of Cape Cod, MA

(L) *SNE/MA Winter Flounder Trimester TAC AM Closure Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the SNE/MA Winter Flounder Trimester TAC Areas I and II shall apply to common pool vessels using trawl gear. The SNE/MA Winter Flounder Trimester TAC Area I is bounded by straight lines connecting the following points in the order stated:

SNE/MA WINTER FLOUNDER TRIMESTER TAC
AREA I

Point	N. latitude	W. longitude
1	42°20'	70°00'
2	42°20'	68°50'
3	41°00'	68°50'
4	41°00'	69°30'
5	41°10'	69°30'
6	41°10'	69°50'
7	41°20'	69°50'
8	41°20'	(¹)
9	(²)	70°00'
10	(³)	70°00'
11	(⁴)	70°00'

¹ East-facing shoreline of Nantucket, MA.² North-facing shoreline of Nantucket, MA.³ South-facing shoreline of Cape Cod, MA.⁴ North-facing shoreline of Cape Cod, MA.

SNE/MA Winter Flounder Trimester TAC Area II is bound on the west by the U.S. coastline, defined by straight

lines connecting the following points in the order stated:

SNE/MA WINTER FLOUNDER TRIMESTER TAC
AREA II

Point	N. latitude	W. longitude
SNE/MA12	(¹)	71°10'
SNE/MA13	41°20'	71°10'
SNE/MA14	41°20'	(²)
SNE/MA15	41°20'	(³)
SNE/MA16	41°20'	(⁴)
SNE/MA17	(⁵)	70°00'
SNE/MA18	39°50'	70°00'
SNE/MA19	39°50'	71°40'
SNE/MA20	40°00'	71°40'
SNE/MA21	40°00'	(⁶)

¹ Intersection with RI shoreline.² West-facing shoreline of Martha's Vineyard, MA.³ East-facing shoreline of Martha's Vineyard, MA.⁴ West-facing shoreline of Nantucket, MA.⁵ South-facing shoreline of Nantucket, MA.⁶ Intersection with NJ shoreline.

(M) *Redfish Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the Redfish Trimester TAC Area shall apply to common pool vessels using trawl gear within the area bounded by straight lines connecting the following points in the order stated:

REDFISH TRIMESTER TAC AREA

Point	N. latitude	W. longitude
RF1	(¹)	69°20'
RF2	43°40'	69°20'
RF3	43°40'	69°00'
RF4	43°20'	69°00'
RF5	43°20'	67°40'
RF6	(²)	67°40'
RF7	42°53.1'	67°44.4'
RF8	(²)	67°40'
RF9	41°20'	67°40'
RF10	41°20'	68°10'
RF11	41°10'	68°10'
RF12	41°10'	68°20'
RF13	41°00'	68°20'
RF14	41°00'	69°30'
RF15	41°10'	69°30'
RF16	41°10'	69°50'
RF17	41°20'	69°50'
RF18	41°20'	(³)
RF19	(⁴)	70°00'
RF20	(⁵)	70°00'

¹ Intersection with ME shoreline.² U.S./Canada maritime boundary.³ East-facing shoreline of Nantucket, MA.⁴ North-facing shoreline of Nantucket, MA.⁵ South-facing shoreline of Cape Cod, MA.

(N) *White Hake Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the White Hake Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/

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hook gear within the area bounded by straight lines connecting the following points in the order stated:

WHITE HAKE TRIMESTER TAC AREA

Point	N. latitude	W. longitude
RF1	(¹)	69°20'
RF2	43°40'	69°20'
RF3	43°40'	69°00'
RF4	43°20'	69°00'
RF5	43°20'	67°40'
RF6	(²)	67°40'
RF7	42°53.1'	67°44.4'
RF8	(²)	67°40'
RF9	41°20'	67°40'
RF10	41°20'	68°10'
RF11	41°10'	68°10'
RF12	41°10'	68°20'
RF13	41°00'	68°20'
RF14	41°00'	69°30'
RF15	41°10'	69°30'
RF16	41°10'	69°50'
RF17	41°20'	69°50'
RF18	41°20'	(³)
RF19	(⁴)	70°00'
RF20	(⁵)	70°00'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ East-facing shoreline of Nantucket, MA.

⁴ North-facing shoreline of Nantucket, MA.

⁵ South-facing shoreline of Cape Cod, MA.

(O) *Pollock Trimester TAC Area*. For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the Pollock Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by straight lines connecting the following points in the order stated:

POLLOCK TRIMESTER TAC AREA

Point	N. latitude	W. longitude
RF1	(¹)	69°20'
RF2	43°40'	69°20'
RF3	43°40'	69°00'
RF4	43°20'	69°00'
RF5	43°20'	67°40'
RF6	(²)	67°40'
RF7	42°53.1'	67°44.4'
RF8	(²)	67°40'
RF9	41°20'	67°40'
RF10	41°20'	68°10'
RF11	41°10'	68°10'
RF12	41°10'	68°20'
RF13	41°00'	68°20'
RF14	41°00'	69°30'
RF15	41°10'	69°30'
RF16	41°10'	69°50'
RF17	41°20'	69°50'
RF18	41°20'	(³)
RF19	(⁴)	70°00'
RF20	(⁵)	70°00'

¹ Intersection with ME shoreline.

² U.S./Canada maritime boundary.

³ East-facing shoreline of Nantucket, MA.

⁴ North-facing shoreline of Nantucket, MA.

⁵ South-facing shoreline of Cape Cod, MA.

(P) *Atlantic Wolffish Trimester TAC Area*. For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the Atlantic Wolffish Trimester TAC Area shall apply to common pool vessels using trawl gear and sink gillnet gear within the area bounded by straight lines connecting the following points in the order stated:

ATLANTIC WOLFFISH TRIMESTER TAC AREA

Point	N. latitude	W. longitude
ATWLF1	(¹)	69°20'
ATWLF2	43°40'	69°20'
ATWLF3	43°40'	69°00'
ATWLF4	43°20'	69°00'
ATWLF5	43°20'	69°10'
ATWLF6	43°00'	69°10'
ATWLF7	43°00'	69°20'
ATWLF8	42°50'	69°20'
ATWLF9	42°50'	69°40'
ATWLF10	42°20'	69°40'
ATWLF11	42°20'	67°40'
ATWLF12	41°20'	67°40'
ATWLF13	41°20'	68°10'
ATWLF14	41°10'	68°10'
ATWLF15	41°10'	68°20'
ATWLF16	41°00'	68°20'
ATWLF17	41°00'	69°30'
ATWLF18	41°10'	69°30'
ATWLF19	41°10'	69°50'
ATWLF20	41°20'	69°50'
ATWLF21	41°20'	(²)
ATWLF22	(³)	70°00'
ATWLF23	(⁴)	70°00'

¹ Intersection with ME shoreline.

² East-facing shoreline of Nantucket, MA.

³ North-facing shoreline of Nantucket, MA.

⁴ South-facing shoreline of Cape Cod, MA.

(iii) *Trimester TAC overage/underage*. If any trimester TAC, as specified in paragraph (n)(2)(i) of this section, is not caught during Trimester 1 or 2, the uncaught portion of the trimester TAC shall be carried forward into the next trimester. Uncaught portions of any trimester TAC following Trimester 3 may not be carried over into the following fishing year. If any trimester TAC is exceeded during the Trimesters 1 or 2, the overage shall be deducted from the Trimester 3 TAC for that stock. If the entire sub-ACL for a particular stock that is allocated to the common pool is exceeded (i.e., the common pool catch of that stock at the end of the fishing year, including the common pool's share of any overage of the overall ACL for a particular stock caused by excessive catch by other sub-components of the fishery pursuant to

§ 648.90(a)(5), exceeds all three trimester TACs for that stock combined), an amount equal to the overage shall be deducted from the sub-ACL for that stock that is allocated to common pool vessels pursuant to § 648.90(a)(4) for the following fishing year.

(iv) *Monitoring requirements.* Starting in fishing year 2012 (May 1, 2012), landings of regulated species or ocean pout by common pool vessels shall be monitored at the point of offload by independent, third-part service providers approved/certified to provide such services by NMFS, as specified in paragraphs (n)(2)(iv)(A) and (B) of this section. These service providers shall deploy dockside monitors to monitor the offload of catch directly to a dealer and roving monitors to monitor the offload of catch onto a truck for subsequent shipment to a dealer. The costs associated with monitoring vessel offloads shall be the responsibility of individual vessels and an individual vessel may only use one dockside monitoring service provider per fishing year. Both common pool vessels and service providers providing offloading monitoring services will be subject to the requirements specified in § 648.87(b)(5).

(A) *Coverage levels.* At least 20 percent of the trips taken by vessels operating under the provisions of the common pool shall be monitored. To ensure that this level of coverage is achieved, if a trip has been selected to be observed by a dockside/roving monitor, all offloading events associated with that trip must be monitored by a dockside/roving monitor, as specified in paragraph (n)(2) of this section. For example, a vessel offloading at more than one dealer or facility must have a dockside/roving monitor present during offload at each location. All landing events at remote ports that are selected to be observed by a dockside/roving monitor will be required to have a roving monitor present to witness offload activities to the truck, as well as a dockside monitor present at each dealer to certify weigh-out of all landings. Any service provider providing dockside/monitoring services required under this paragraph (n)(2)(iv) must ensure that coverage is randomly distributed among all such trips and that the landing events monitored are rep-

resentative of fishing operations by common pool vessels throughout the fishing year, unless otherwise directed.

(B) *Dockside/roving monitor service provider standards.* For fishing year 2012 and beyond, a common pool vessel must employ a service provider approved/certified by NMFS to provide dockside/roving monitor services, as identified by the Regional Administrator. To be approved/certified to provide the services specified in paragraph (n)(2) of this section, dockside/roving monitor service providers must meet the standards listed in § 648.87(b)(4).

(v) *Adjustments to trimester TACs.* The distribution of trimester TACs specified in paragraph (n)(2)(i) of this section may be revised pursuant to the biennial adjustment or framework process specified in § 648.90(a)(2) and shall use the distribution of landings of the most recent 5-year period available.

(vi) *Trip limit adjustment.* When 60 percent of the northern or southern windowpane flounder, ocean pout, or Atlantic halibut sub-ACLs specified for common pool vessels pursuant to § 648.90(a)(4)(iii)(E)(2) is projected to be caught, the Regional Administrator may specify a possession limit for these stocks that is calculated to prevent the yearly sub-ACL from being exceeded prior to the end of the fishing year.

(o) *Inseason adjustment to differential DAS counting for NE multispecies common pool vessels.* (1) In addition to the DAS accrual provisions specified in paragraphs (e) and (n) of this section, and other measures specified in this part, common pool vessels are subject to the following restrictions: The Regional Administrator shall project the catch of regulated species or ocean pout by common pool vessels and shall determine whether such catch will exceed any of the sub-ACLs specified for common pool vessels as described in § 648.90(a)(4). This projection shall include catch by common pool vessels, as well as available information, regarding the catch of regulated species and ocean pout by vessels fishing for NE multispecies in State waters outside of the authority of the FMP, vessels fishing in exempted fisheries, and vessels fishing in the Atlantic sea scallop fishery. If it is projected that catch will

exceed or under-harvest the common pool sub-ACL, the Regional Administrator may, at any time during the fishing year, implement a differential DAS counting factor to all Category A DAS used within the pertinent stock area(s), as specified in paragraph (n)(1)(i) of this section, in a manner consistent with the Administrative Procedure Act. Notwithstanding the fact that the differential DAS accountability measures described in paragraph (n)(1) of this section are intended to address potential over-harvests in fishing year 2010 and 2011, the scope of the Regional Administrator authority specified in this paragraph (o) is not limited to FY 2010 and 2011.

(2) The differential DAS counting factor shall be based on the projected proportion of the sub-ACL of each NE multispecies stock caught by common pool vessels, rounded to the nearest even tenth, as specified in paragraph (n)(1)(ii) of this section, unless otherwise specified in §648.90(a)(5). For example, if the Regional Administrator projects that common pool vessels will catch 1.18 times the sub-ACL for GOM cod by the end of fishing year 2010, the Regional Administrator may implement a differential DAS counting factor of 1.2 to all Category A DAS used by common pool vessels within the Inshore GOM Differential DAS Area during fishing year 2010 (*i.e.*, Category A DAS will be charged at a rate of 28.8 hr for every 24 hr fished—1.2 times 24-hr DAS counting). If it is projected that catch will simultaneously exceed or underharvest the sub-ACLs for several regulated species stocks within a particular stock area, the Regional Administrator may implement the most restrictive differential DAS counting factor derived from paragraph (n)(1)(ii) of this section for the sub-ACLs exceeded or underharvested to any Category A DAS used by common pool vessels within that particular stock area. For example, if it is projected that the common pool vessel catch will exceed the GOM cod sub-ACL by a factor of 1.2 and the CC/GOM yellowtail flounder sub-ACL by a factor of 1.1, the Regional Administrator may implement a differential DAS counting factor of 1.2 to any Category A DAS fished by common pool vessels within the Inshore

GOM Differential DAS Area during the fishing year. For any inseason differential DAS counting factor implemented, the differential DAS counting factor shall be applied against the DAS accrual provisions specified in paragraph (e)(1)(i) of this section for the time spent fishing in the applicable differential DAS counting area based upon the first VMS position into the applicable differential DAS counting area and the first VMS position outside of the applicable differential DAS counting area pursuant to §648.10. For example, if a vessel fished 12 hr inside a differential DAS counting area where a differential DAS counting factor of 1.2 would be applied, and 12 hr outside of the differential DAS counting area, the vessel would be charged 48 hr of DAS, because DAS would be charged in 24-hr increments ((12 hr inside the area \times 1.2 = 14.4 hr) + 12 hr outside the area, rounded to the next 24-hr increment to determine DAS charged).

(3) For any inseason differential DAS counting factor implemented in fishing year 2011, the inseason differential DAS counting factor shall be applied in accordance with the DAS accrual provisions specified in paragraph (e)(1)(i) of this section, and, if pursuant to paragraph (n)(1) of this section, in conjunction with a differential DAS counting factor also implemented for the same differential DAS area during fishing year 2011 as an AM. For example, if a differential DAS counting factor of 1.2 was applied to the Inshore GOM Differential DAS Area during fishing year 2011, as an AM due to a 20-percent overage of the GOM cod sub-ACL in fishing year 2010, and during fishing year 2011 the GOM cod sub-ACL was projected to be exceeded by 30 percent, an additional differential DAS factor of 1.3 would be applied to the DAS accrual rate as an inseason action during fishing year 2011. Under this example, the DAS accrual rate after both the AM and the inseason differential DAS rate is applied to FY 2011 in the Inshore GOM Differential DAS Counting Area

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would be 37.4 hr charged for every 24 hr fished— $1.2 \times 1.3 \times 24$ -hr DAS charge.

[69 FR 22969, Apr. 27, 2004, as amended at 69 FR 67798, Nov. 19, 2004; 69 FR 70923, Dec. 8, 2004; 70 FR 21942, Apr. 28, 2005; 70 FR 31340, June 1, 2005; 70 FR 76427, Dec. 27, 2005; 71 FR 62186, Oct. 23, 2006; 72 FR 73279, Dec. 27, 2007; 74 FR 10515, Mar. 11, 2009; 74 FR 20555, May 4, 2009; 75 FR 18319, 18371, Apr. 9, 2010]

EDITORIAL NOTE: At 75 FR 18319, Apr. 9, 2010, in § 648.82, paragraph (e)(i)(ii) was revised. However, no (e)(i)(ii) existed, so it could not be revised.

§ 648.83 Multispecies minimum fish sizes.

(a) *Minimum fish sizes.* (1) Minimum fish sizes for recreational vessels and charter/party vessels that are not fishing under a NE multispecies DAS are specified in § 648.89. Except as provided in § 648.17, all other vessels are subject to the following minimum fish sizes, determined by total length (TL):

MINIMUM FISH SIZES (TL) FOR COMMERCIAL VESSELS

Species	Size (inches)
Cod	22 (55.9 cm)
Haddock	18 (45.7 cm)
Pollock	19 (48.3 cm)
Witch flounder (gray sole)	14 (35.6 cm)
Yellowtail flounder	13 (33.0 cm)
American plaice (dab)	14 (35.6 cm)
Atlantic halibut	41 (104.1 cm)
Winter flounder (blackback)	12 (30.5 cm)
Redfish	9 (22.9 cm)

(2) The minimum fish size applies to whole fish or to any part of a fish while possessed on board a vessel, except as provided in paragraph (b) of this section, and to whole, whole-gutted or gilled fish only, after landing. For purposes of determining compliance with the possession limits in § 648.86, the weight of fillets and parts of fish, other than whole-gutted or gilled fish, will be multiplied by 3. Fish fillets, or parts of fish, must have skin on while possessed on board a vessel and at the time of landing in order to meet minimum size requirements. "Skin on" means the entire portion of the skin normally attached to the portion of the fish or to fish parts possessed is still attached.

(3) Minimum fish sizes for recreational vessels and charter/party vessels that are not fishing under a NE multispecies DAS are specified in

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§ 648.17, all other vessels are subject to the following minimum fish sizes, determined by total length (TL):

MINIMUM FISH SIZES (TL) FOR COMMERCIAL VESSELS

Species	Sizes (Inches)
Cod	22 (55.9 cm)
Haddock	18 (45.7 cm)
Pollock	19 (48.3 cm)
Witch flounder (gray sole)	14 (35.6 cm)
Yellowtail flounder	13 (33.0 cm)
American plaice	14 (35.6 cm)
Atlantic halibut	36 (91.4 cm)
Winter flounder (blackback)	12 (30.5 cm)
Redfish	9 (22.9 cm)

(b) *Exceptions.* (1) Each person aboard a vessel issued a NE multispecies limited access permit and fishing under the DAS program may possess up to 25 lb (11.3 kg) of fillets that measure less than the minimum size, if such fillets are from legal-sized fish and are not offered or intended for sale, trade, or barter. For purposes of determining compliance with the possession limits specified in § 648.86, the weight of fillets and parts of fish, other than whole-gutted or gilled fish, will be multiplied by 3.

(2) Recreational, party, and charter vessels may possess fillets less than the minimum size specified, if the fillets are taken from legal-sized fish and are not offered or intended for sale, trade or barter.

(3) Vessels fishing exclusively with pot gear may possess NE multispecies frames used, or to be used, as bait, that measure less than the minimum fish size, if there is a receipt for purchase of those frames on board the vessel.

(4) Vessels that have an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit may possess and land haddock and other regulated species that are smaller than the minimum size specified under § 648.83, consistent with the bycatch caps specified in §§ 648.86(a)(3) and 648.86(k). Such fish may not be sold for human consumption.

(c) *Adjustments.* (1) At any time when information is available, the NEFMC will review the best available mesh selectivity information to determine the appropriate minimum size for the species listed in paragraph (a) of this section, except winter flounder, according